



State Water Resources Control Board

Alan C. Lloyd, Ph.D.
Agency Secretary

Division of Water Rights
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Arnold Schwarzenegger
Governor

NOTICE OF APPLICATION TO APPROPRIATE WATER BY PERMIT

APPLICATION: 30384
STREAM SYSTEM: Putah Creek

DATE FILED: July 21, 1994
COUNTY: Napa

Notice is hereby given that Gerald J. Marino and J & J Nichelini Vineyards has filed an application for a water right permit. The State Water Resources Control Board (State Water Board) will determine whether a water right permit should be issued for the application and, if so, whether conditions are needed in the permit to protect the environment, the public interest, and downstream water users. This notice provides a description of the proposed project and also describes the procedure and time frame for submittal of protests against the application. This notice may be viewed at the Division of Water Rights' (Division) website at www.waterrights.ca.gov. Any correspondence directed to the applicant should be mailed to:

Gerald J. Marino
J & J Nichelini Vineyards
c/o J. Tevis Armstrong,
Water Rights Consultant
4209 American River Drive
Sacramento, CA 95864

Description of Project

The applicants propose to divert and store 245 acre-feet per annum (afa) of water. Water will be collected to storage from December 15 of each year to April 15 of the succeeding year. Five reservoirs would store the collected water. An existing 46.8 acre-feet (af) capacity onstream reservoir, built under Licensed Application 20370, would be enlarged to 49 af. The reservoir would be excavated to accommodate the increased capacity; the dam height would not be increased. The existing reservoir is licensed for stockwatering and recreational purposes. Thus, pursuant to Application 30384, the applicant now seeks to use the reservoir for consumptive purposes. The point of diversion would be from an unnamed stream tributary to Pope Creek thence Putah Creek thence the Yolo Bypass.

Four offstream pit reservoirs would also be constructed, each with 49 af of storage. Diversions to the four offstream reservoirs would take place using a moveable pump that will be located between two points of diversion spanning 0.8 mile on Pope Creek tributary to Putah Creek thence the Yolo Bypass. The four offstream reservoirs will be filled by pumping between the two points of diversion. The maximum rate of diversion to offstream storage will not exceed 3 cubic feet per second (cfs).

The stored water would provide irrigation, frost protection and heat control of a 305-acre vineyard within a 455-acre property that is currently not irrigated. The 455-acre property is located on Lower Chiles Valley Road approximately 6 miles northeast of Angwin in Napa County, California. An environmental document is being prepared for this project.

Summary of Application

County: Napa.

Sources: (1) Unnamed Stream tributary to Pope Creek and (2) Pope Creek tributary to Putah Creek thence the Yolo Bypass.

Point of
Diversion to

Storage : Located within the NE $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 11, T9N, R5W, MDB&M.

Moveable
Point of
Diversion
to Offstream

Storage: Located between the SW $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 11 and the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of section 11, all within T9N, R5W, MDB&M.

Offstream

Storage: (1) SE $\frac{1}{4}$ of SW $\frac{1}{4}$ of section 11, (2) SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of section 11, SW $\frac{1}{4}$ of NE $\frac{1}{4}$ of section 11, NE $\frac{1}{4}$ of SE $\frac{1}{4}$ of section 11, all within T9N, R5W, MDB&M.

Amount: 245 af per year of storage.

Season: December 15 to April 15 for storage.

Purposes: Irrigation, heat control, and frost protection.

Place of Use:

<u>Use is Within</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>B & M</u>	<u>If Irrigated</u>	
					<u>No.of Acres</u>	<u>Presently Cultivated</u> (Y/N/Partial)
NW $\frac{1}{4}$ of NW $\frac{1}{4}$	11	9N	5W	MD	25	N
SW $\frac{1}{4}$ of NW $\frac{1}{4}$	11	9N	5W	MD	30	N
SE $\frac{1}{4}$ of NW $\frac{1}{4}$	11	9N	5W	MD	40	N
NW $\frac{1}{4}$ of SW $\frac{1}{4}$	11	9N	5W	MD	25	N
SW $\frac{1}{4}$ of SW $\frac{1}{4}$	11	9N	5W	MD	20	N
NE $\frac{1}{4}$ of SW $\frac{1}{4}$	11	9N	5W	MD	30	N
SW $\frac{1}{4}$ of NE $\frac{1}{4}$	11	9N	5W	MD	35	N

NW¼ of SE¼	11	9N	5W	MD	40	N
NE¼ of SE¼	11	9N	5W	MD	20	N
SE¼ of NE¼	11	9N	5W	MD	30	N
NW¼ of SW¼	12	9N	5W	MD	10	N
TOTAL					305	

Environmental Information

The lead agency will prepare the appropriate environmental documents for the project according to the California Environmental Quality Act (CEQA) and its guidelines, and will determine whether or not the project will cause a significant effect on the environment. If you are not filing a protest, but wish to submit information that indicates the project may cause a significant effect on the environment, please send this information to Steven Herrera; State Water Board, Division of Water Rights; P.O. Box 2000; Sacramento, CA 95812-2000. This information will be reviewed in accordance with CEQA.

PROTEST SUBMITTAL INFORMATION

Protest Requirements

A person may file a protest based on any of the following factors:

- Interference with prior water rights.
- Adverse environmental impact.
- Not in the public interest.
- Contrary to law.
- Not within the jurisdiction of the State Water Board.

All protests must clearly describe the objections to approval of the application and the factual basis for those objections. There must be a clear link between the proposed project and the objection to its approval. If the objection is based on interference with prior water rights, the protest must describe specifically what injury would result if the application is approved. In addition, the party claiming interference with prior rights must provide specific information describing the basis of the prior right, the date the use began, the quantity of water used, the purpose of use and the place of use. Please note that any water right permit issued by the State Water Board is subject to vested water rights and will include conditions to protect such rights.

If the protest is based on an allegation that the proposed appropriation would not be within the State Water Board's jurisdiction, would not best conserve the public interest or public trust uses, would have an adverse environmental impact, or would be contrary to law, the protest must be accompanied by a statement of facts supporting the allegation.

For example, public interest protests should clearly indicate how the appropriation will affect the public; environmental protests should identify specific impacts and provide supporting recitals on the effect of the proposed project on plants, animals, fish, erosion, pollution, aesthetics, etc.; public trust protests must identify the navigable waters and public trust values that would be affected by the proposed project and how the project will impact public trust values.

All protests should include a description of any measures that could be taken to resolve the protest. The protest also must indicate the manner in which the protestant served upon the applicant a duplicate copy of the protest.

If sufficient information is not submitted, the State Water Board may reject the protest or request that the protestant submit additional information. Protests of a general nature (not project specific) or protests that are inconsistent with constitutional or legislated state policy will not be accepted. A request for information or a request that studies be conducted does not constitute a protest.

Procedure for Submitting Protests

Protests should be submitted on standard protest forms available from the Division's website at www.waterrights.ca.gov/forms/ or upon request, in writing or by telephone, from the Division. A pamphlet that provides additional information relating to water rights and the procedure for filing protests is also available on the website or by mail. Any requests or the submittal of the completed protest form should be directed to the individual listed as the contact person at the end of this notice. **A copy of the completed protest form must also be mailed to the applicant.**

Protest Submittal Deadline

Protests submitted in response to this notice must be received by the Division by 3:00 p.m. on the **60th** day after the date of this notice (the close of the protest period). Protests may be submitted by any of the following methods:

1. Mailed to Division of Water Rights; P. O. Box 2000; Sacramento, CA 95812-2000
2. Faxed to the Division at (916) 341-5400
3. E-mailed to the engineer listed below under the heading "Contact Person"
4. Hand-delivered to the Division office located at 1001 "I" Street, 2nd Floor (File Room), Sacramento, CA

If you choose to fax or e-mail the protest due to the constraints of the noticing period, the fax or e-mail must be followed by timely delivery of an original signed copy, either personally or by mail, to the Division in order for the protest to be accepted. The State Water Board will respond to all protests within 60 days of the final day to file a protest. **Protests not submitted by the close of the protest period will be subject to rejection.**

For good cause, the State Water Board may grant an extension of time to file a protest. It is the protestant's responsibility to contact the engineer listed below as "Contact Person" to request the extension prior to the end of the protest period.

Resolution of Protests

The applicant will have 30 days to respond to a protest once it is accepted by the Division. The protestant and the applicant are expected to make a good faith effort to resolve the protest within 180 days from the close of the protest period.

This is a “major” project (the proposed diversion is greater than 3 cubic feet per second by direct diversion or greater than 200 acre-feet per year by storage) as defined by section 1348 of the Water Code. Therefore, any protest issues not resolved by the applicant or by provisions of section 1335 of the Water Code will be decided by the State Water Resources Control Board following an evidentiary hearing.

CONTACT PERSON

To obtain additional information regarding this project, or to obtain copies of protest forms, or general information pamphlets, please contact Karol Enferadi by phone at (916) 341-5361, or by electronic mail at kenferadi@waterboards.ca.gov. Information and protest forms are also available at the Division’s website: www.waterrights.ca.gov/forms/.

Date of Notice: **November 18, 2005**

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